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M.10646 MICROSOFT/ACTIVISION ORAL HEARING

ECONOMIC CONSIDERATIONS

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21 February 2023

RX5054-001

SO is lightweight and short on evidence

All about single input foreclosure

One piece of content (CoD, or at most “CoD+”)

But *evidence is just not there*

Economic work is thin, peripheral, or redacted

“Exclusivity” and “foreclosure” not the same in economics



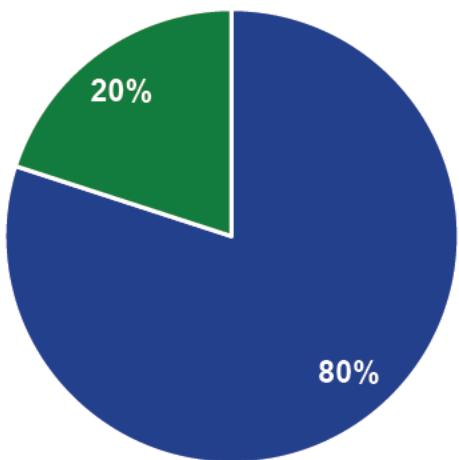
**Need *strong market power* to “leverage”
& *credible shifting mechanism***

SO has **no evidence** that Sony can be *meaningfully*
foreclosed even if it lost access to Call of Duty

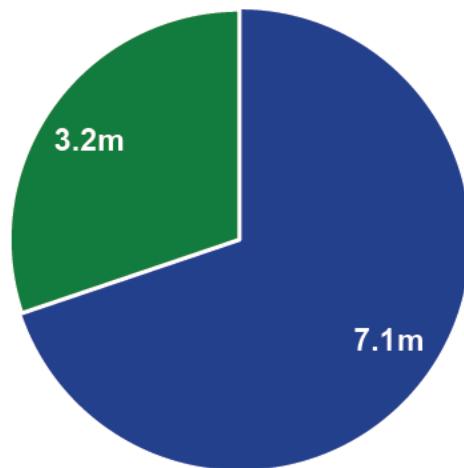
“Foreclosure” of the dominant player is a most unusual claim

■ PlayStation ■ Xbox

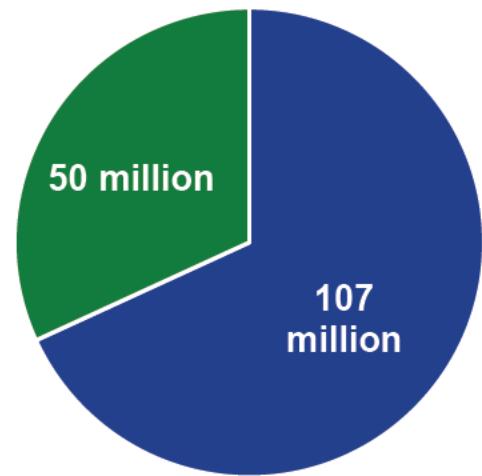
Installed base shares,
2022, EEA



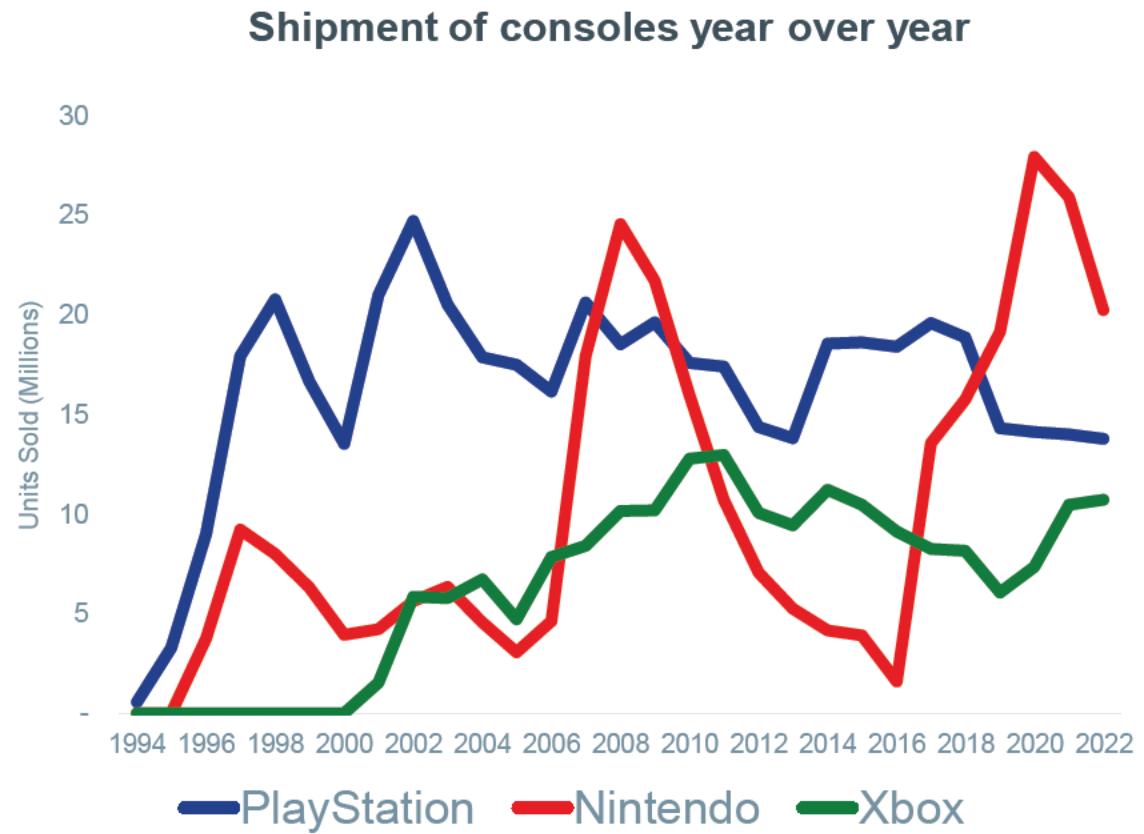
Q4 2022 console unit
sales



Avg. MAU WW, 2022



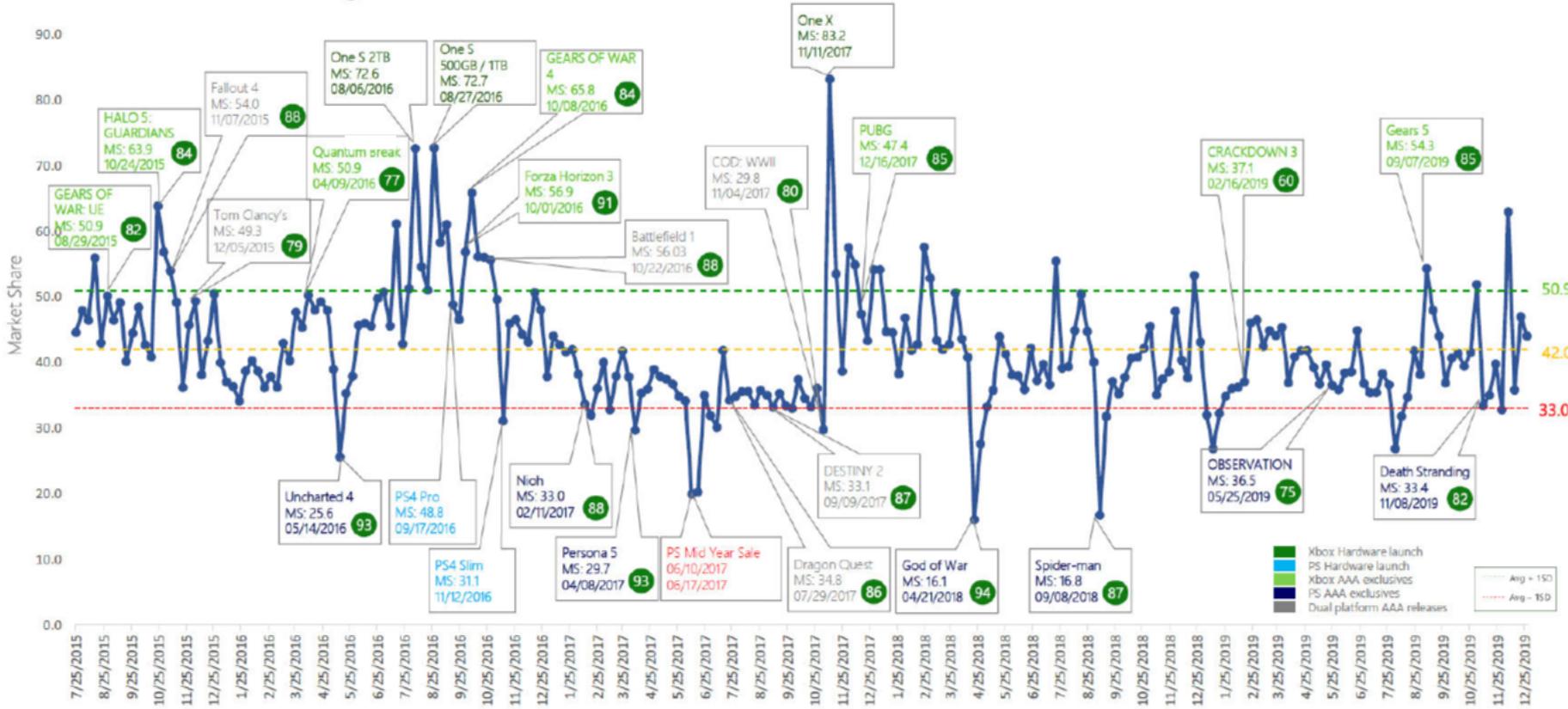
Exclusives are standard in the industry, could one more be credibly weaponised as “foreclosing mechanism”?



Why would CoD be any different?

Exclusives shift share back and forth, effects are short-lived

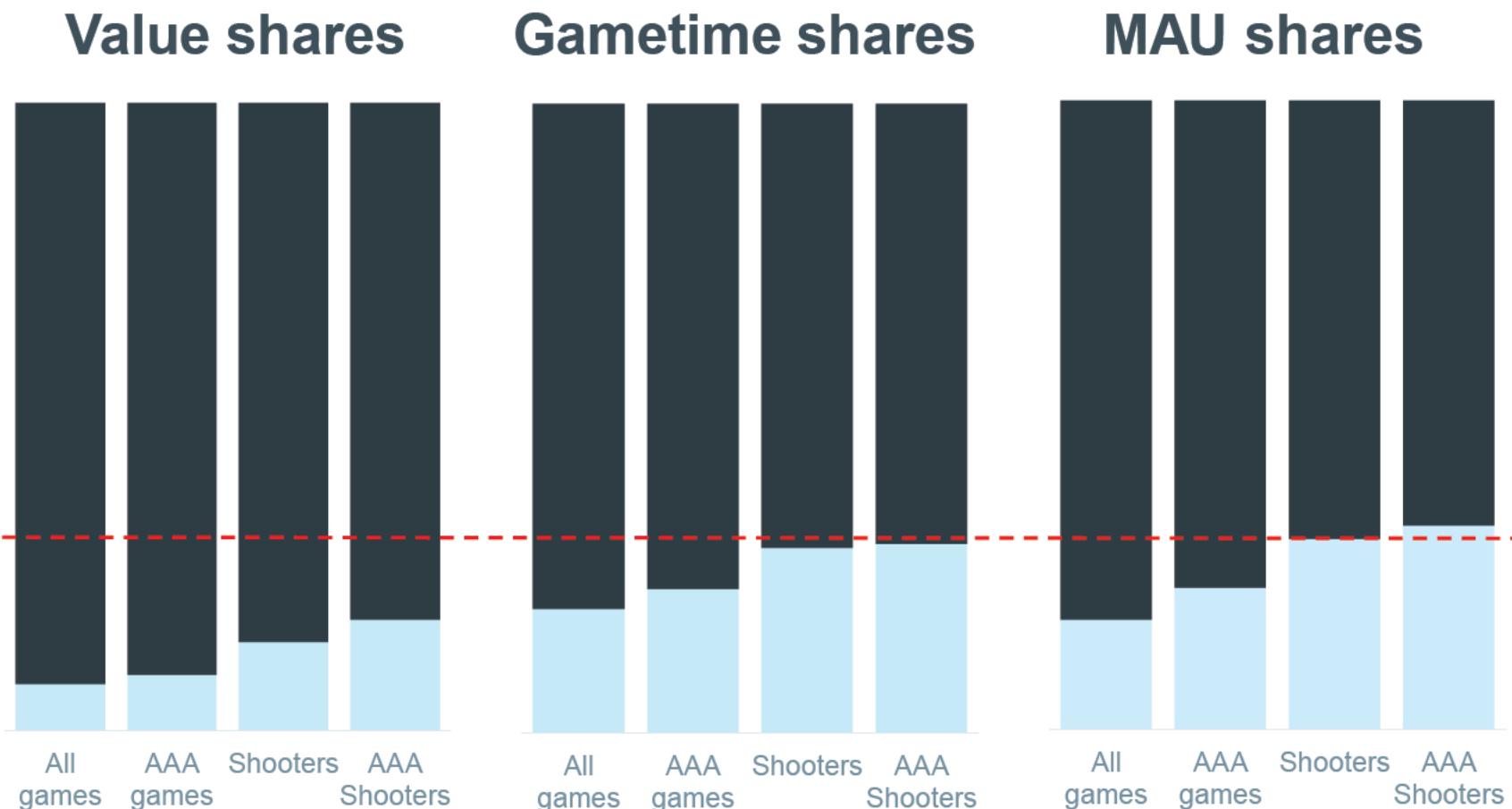
Xbox vs PlayStation NA share of weekly sales 2015-2019



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Foreclosure by leveraging *what power?*



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No credible measure of “the shift” away from PS/to Xbox

NO OWN EVIDENCE OR ANALYSIS IN THE SO

Adopts Sony's rule

Gamers who spend **more than 40% of their time on COD** would switch to Xbox

BUT

1

Everyone playing CoD even for an hour in a year would switch?

2

Assumes Xbox would have full recapture

■ **% of PS gamers would “switch”**
(based on Xbox data)

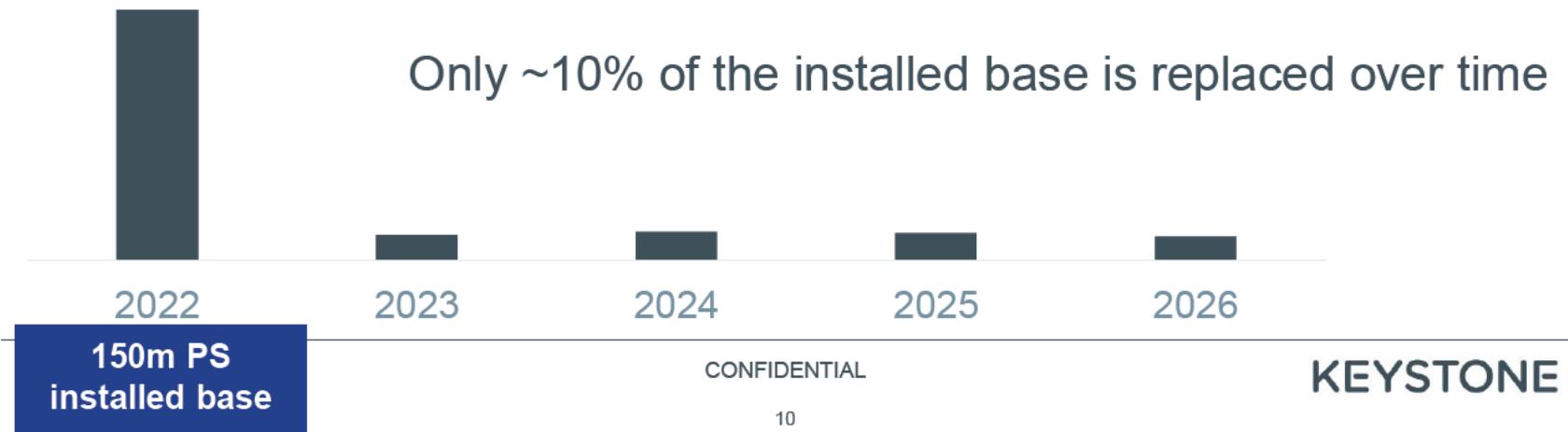
“Switching” means completely abandoning your PS?



Would gamers leave their library of games and friends community ?

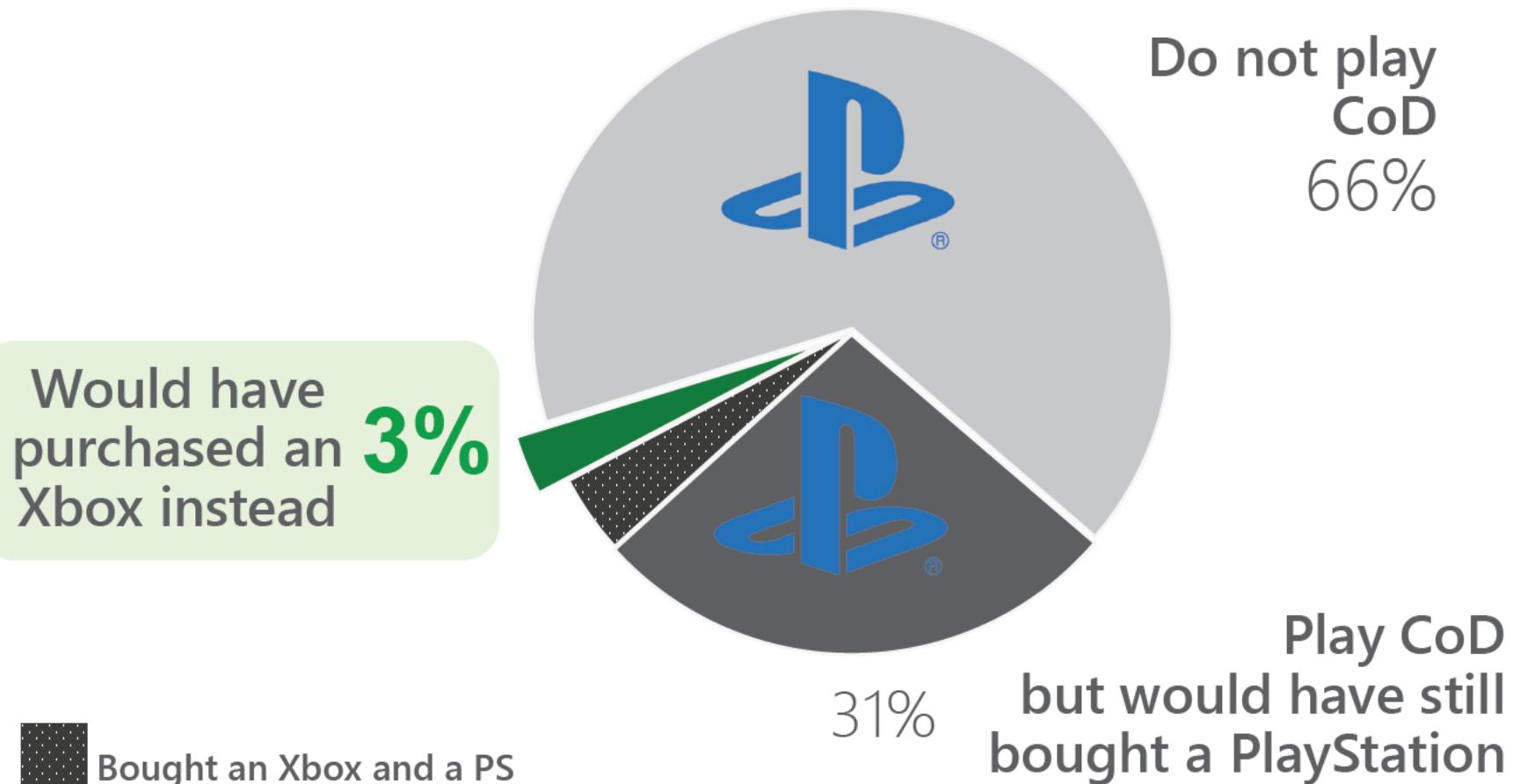


PlayStation consoles will not be abandoned.



We actually did measure the impact of exclusives: What would existing PS gamers do if Call of Duty were not on PS?

YouGov®



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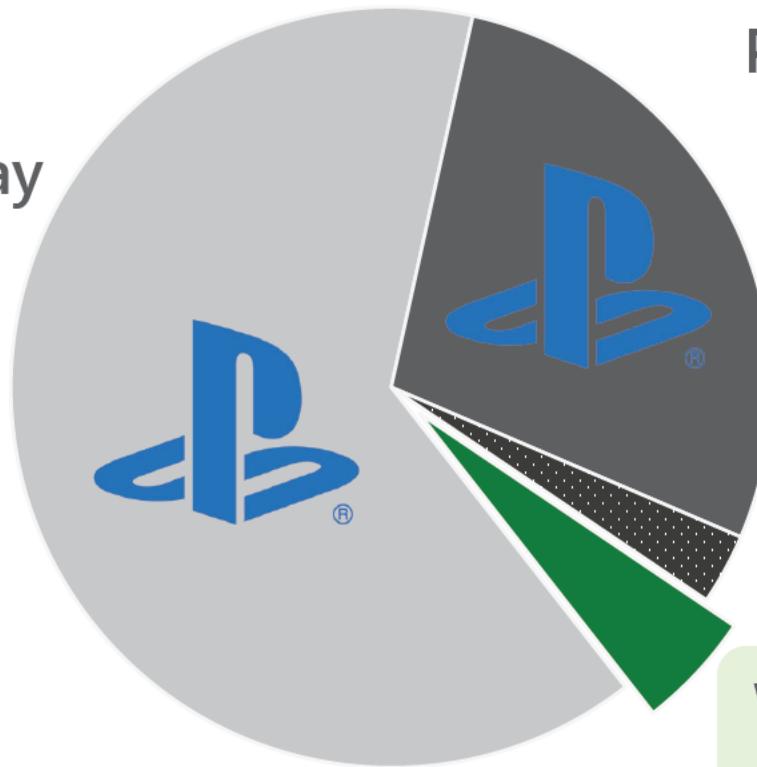
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What would gamers planning to buy a PS do if CoD were not on PS?

YouGov®



Do not play
CoD
64%



Play CoD but will
still buy a
PlayStation
31%

Will purchase
Xbox instead **5%**



Buy an Xbox and a PS

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CoD is less important to PS gamers than many titles inc. PS exclusives

Share of PS gamers buying an Xbox if their “game X” was not on PS

	PS4	PS5	PS4	PS5	PS4
1	5.2% FIFA	5.3% FIFA	7.4% FIFA	11.5% FIFA	5.4% FIFA
2	4.4% Fortnite	4.7% Battlefield	3.8% Fortnite	9.1% Horizon	3.5% CoD
3	4.1% GTA	4.3% NBA 2K	3.7% Assassin's Creed	8.1% Minecraft	3.2% God of War
4	3.9% CoD	3.4% Apex Legends	3.1% Grand Turismo	6.8% Overwatch	3.1% Gran Turismo
5	3.8% F1	3.2% Horizon	2.8% CoD	6.1% F1	2.6% Far Cry

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SO Economic Annex is perfunctory (and just for consoles)

1

...what incentive analysis?

Annex Table 1: Critical diversion ratios for four scenarios

[...]

Source: Commission calculations

??

- **Only available in the Data Room**
- **Derivative** of what Sony submitted
- **Inflates switchers** with a crude rule
- Does not engage with **value of a gamer**

2

Bargaining model is minimalist

- Toy model “formally showing” Xbox would have more power in negotiations (!)
- Prices of CoD/ consoles do not move. Claim of PS price increase “outside the model”
- **No welfare implications** as effects are reversed once the model is “corrected”

3

Econometrics is irrelevant/ inconclusive

- **Cross-genre substitution is clearly there**
- Basic errors
- Essentially concludes that this year’s CoD is a good substitute for last year’s CoD...

No evidence on TOH2 – “strategically withholding CoD from subscription/cloud streaming”

SO assumes availability of CoD will drive choice of subscription/cloud streaming

Content influencing choice

Shooters

AAA Shooters

CoD?

NO EVIDENCE that

- CoD as a single game can drive gamers' choice of cloud streaming service
- CoD would have been pivotal to the development of these services
- Cloud is going to overcome current obstacles in what timeframe

No evidence on ToH 3 - Using CoD strategically to protect Windows OS?

SO repurposes withholding as a “technical tie” leveraging ABK games to protect “dominance” in Windows PC OS from future competition (Chrome)

1

Restrict ABK games from rival
cloud services **on rival PC OS**



2

Restrict Game Pass
Ultimate **on rival PC OS**



Dressed up as a “tie”, but still entirely an input foreclosure story
(withholding CoD from Chrome...)

Attempts to echo *Android* ? “a tie to protect incumbency”?



Google Play was a “must have” on Android devices and *could be leveraged*, but analogy is just not there.

- Where is evidence CoD or ABK has enough market power to be leveraged into protecting Microsoft’s OS?
- SO produces **no evidence** other than repurposing Google’s complaint
- **CMA discards the TOH entirely**



PC users who played
ABK games (■%)

Conclusions

The SO is sparse on economic analysis

**Three variants of an “input foreclosure story”,
all implausible**

- **Consoles**: just cannot “foreclose Sony, the dominant console player
- **Cloud streaming**: no evidence future competition depends on CoD
- **Operating System competition**: no evidence OS choice is dependent on CoD

Adding up three weak stories does not make a decent one